

IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 45 OF 2002

MARUTI G.HALLIKAR & ANR.

....Appellants

Versus

BABU Y.NAIK & ANR.

....Respondents

Mr. Lotlikar, Senior Advocate with Mr. M. D' Souza, Advocate for the Appellants.

Mr.J.P.Mulgaonkar, Advocate for the Respondents.

Coram:- N. A. BRITTO, J.

Date:- 17th March, 2006

P.C.

Heard Shri Lotlikar, the learned Senior Counsel on behalf of the appellants and Shri Mulgaonkar, the leaned Counsel on behalf of the respondents.

2. Shri Lotlikar has submitted that the appellants have filed an application dated 26.11.2001, before the learned first appellate Court to produce certain documents which would show the possession of the appellants. The said documents were issued by the Mapusa Municipal Council, etc. It is the submission of Shri Lotlikar, that the learned first appellate Court, without considering the said application dated 26.11.2001 and the documents annexed thereto, has proceeded to dispose of the said First Appeal.

3. The appellants herein had filed the said application for production of the said documents and, at that stage, it was the duty of the first appellate Court to have decided the application by hearing the opposite side, which effort, it appears has not been done by the first appellate Court. As a result, this appeal is allowed and the impugned Judgment

dated 26.11.2001, is hereby set aside with a direction to the learned first appellate Court, to decide the said application filed by the appellants for the production of documents, in accordance with law and dispose the appeal on merits thereafter.

4. This Second Appeal is allowed on the above terms. Both the parties are directed to appear before the first appellate Court on 31st instant at 10.00 a.m.

N. A. BRITTO, J.

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